

In the Court of Appeals of the State of Alaska

Sherrie Ina Wilson,
Appellant,

v.

State of Alaska,
Appellee.

Court of Appeals No. **A-13318**

Order

Date of Order: **December 8, 2021**

Trial Court Case No. **3AN-11-08618CI, 3AN-09-04793CR**

The Appellant, Sherrie I. Wilson, is currently represented at public expense by an attorney from the Public Defender Agency. Although she is represented by an attorney, Wilson has filed a request asking this Court to allow her to represent herself in this appeal. Normally, this Court does not accept pro se pleadings from represented litigants, but because Wilson has the right to represent herself, the Court will make an exception in this case.

Wilson may desire to represent herself in this appeal, but she also has a constitutional right to counsel to assist her in the appeal. Unless and until she knowingly and intelligently waives that right, any legal proceedings in which she is not represented by counsel would be void. *See Johnson v. Zerbst*, 304 U.S. 458, 467-68; 58 S.Ct. 1019, 1024-25; 82 L.Ed. 1461 (1938) (holding that a deprivation of the right to counsel is equivalent to a lack of jurisdiction). Before Wilson may represent herself, the superior court must determine whether she is willing to enter a knowing and intelligent waiver of the right to counsel, and if so, whether she is capable of representing herself on appeal.

The Court also notes that the briefing has been completed in this case and the case is awaiting conference. At this stage of the appeal, even if Wilson knowingly and intelligently waives her right to the assistance of counsel, and if she is also found competent to represent herself, she will not be allowed to raise new arguments or claims of errors, nor as a general matter, will she be allowed to file other “pleadings” without

first showing that good cause exists to do so.

In addition to her request to represent herself, Wilson also makes a number of other requests. Because Wilson is currently still represented by counsel, this Court will take no action on these other requests.

IT IS ORDERED:

1. Wilson's case is remanded to the superior court to determine whether Wilson wishes to represent herself rather than be represented by the Public Defender Agency.

2. The superior court shall conduct an inquiry to make sure that Wilson understands the benefits of counsel and the dangers of representing herself, and to make sure that Wilson is minimally competent to represent herself — *i.e.*, that she is capable of presenting a comprehensible argument on appeal (should that become necessary), and that she understands that even if allowed to represent herself, she will not — because the briefing is complete in this case — be allowed to raise new arguments or claims of errors, nor as a general matter, will she be allowed to file other “pleadings” without first showing that good cause exists to do so.

3. If, after Wilson is advised of the benefits of counsel and the dangers of self-representation, she still wishes to represent herself, and if the superior court concludes that Wilson is at least minimally competent to do so, the superior court shall inform this Court of these circumstances. Wilson will then be allowed to represent herself in this appeal and Public Defender Agency will be allowed to withdraw.

4. If, on the other hand, Wilson decides not to represent herself, or if the superior court concludes that Wilson is not minimally competent to pursue this appeal

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on her own, then the Public Defender Agency shall continue to represent Wilson. The superior court shall inform this Court of these circumstances.

5. Because Wilson has a constitutional right to the assistance of counsel on appeal, she must expressly and knowingly waive this right if she wishes to dismiss her court-appointed counsel and represent herself. Accordingly, if Wilson is unable to make up her mind about whether to represent herself, this means that she has *not* waived her right to counsel, and the Public Defender Agency shall continue to represent her in this appeal.

6. The superior court's report on these matters shall be transmitted to this Court on or before **January 10, 2022**. At the request of the superior court, this deadline may be extended if necessary.

7. The Clerk of the Appellate Courts is directed to attach a copy of the pleadings Wilson filed on November 29, 2021 to this Order.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', written over a horizontal line.

Kaitlin D'Eimon, Deputy Clerk

cc: Court of Appeals Judges
Trial Court Clerk

Distribution:

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